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**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH**

S.B. CRIMINAL MISC. PETITION NO.1881/06

Surendra Kumar **Versus** State**DATE OF ORDER :: 22/10/2007****HON'BLE MR. JUSTICE AJAY RASTOGI**

Mr. Sudarshan Laddha, for petitioner

Mr. Arun Sharma, Public Prosecutor for State

* * *

Instant petition has been filed assailing the order dated 31st August, 2006 whereby application of accused-petitioner filed u/s.311 of the Code has been rejected by learned trial Judge.

The accused-petitioner is facing trial for offence u/ss.302, 323, 147, 148 & 149 IPC. Pending trial, application has been filed by accused-petitioner u/s.311 of Code with the request that statement of PW-3 Om Prakash which was recorded on 6th December, 1994, be re-examined in the presence of present accused-petitioner since he could not properly cross-examine witness of prosecution PW-3 Om Prakash. Learned trial Judge after taking into consideration the material and so also the application filed by accused-petitioner, observed that statement of PW-3 Om Prakash was recorded on 6th December, 1994 in the presence of accused-petitioner Surendra Kumar and who has cross-examined him and entertaining application after almost 12 years of

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his statement being recorded will be nothing, but delay in proceeding which was not considered to be acceptable.

This Court has also gone through the order and is of the opinion that learned trial Judge has taken into consideration the complete material on record and order impugned does not call for interference.

Consequently, the misc. petition fails and is hereby dismissed.

[AJAY RASTOGI], J.